

1 IN THE CIRCUIT COURT OF SMITH COUNTY, MISSISSIPPI
2

3 MILTON WATTS and

4 EVIE LEA WATTS

PLAINTIFFS

5
6 VS. CIVIL ACTION NO. 2002-364
7

8 RADIATOR SPECIALTY COMPANY, ET AL DEFENDANTS
9

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11 TRANSCRIPT OF THE PROCEEDINGS HAD AND DONE IN
12 THE HEARING ON MOTIONS AND TRIAL OF THE ABOVE
13 STYLED AND NUMBERED CAUSE BEFORE THE HONORABLE
14 ROBERT G. EVANS, CIRCUIT COURT JUDGE OF THE
15 THIRTEENTH DISTRICT OF MISSISSIPPI, ON
16 NOVEMBER 8, 2004; NOVEMBER 9, 2004; NOVEMBER
17 10, 2004; NOVEMBER 11, 2004; NOVEMBER 16,
18 2004; NOVEMBER 17, 2004; NOVEMBER 18, 2004;
19 AND JANUARY 27, 2006.

20 *****
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EXHIBIT

9

tabbed

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1 were in any workplaces?

2 A. I don't have the specifics of the fan.
3 I mean, I know -- fans that you generally see
4 in a work area, I mean, I know those types of
5 fans, and I would certainly have presumed that
6 it's the same type of fan.

7 Q. How many fans were there, sir?

8 A. No, I don't know. It's something that
9 was not in the testimony. It simply said it
10 was a well-ventilated facility.

11 Q. Well, you didn't need that information
12 to form your opinions, correct?

13 A. I -- no. I didn't even use that
14 information other than to say I presented data
15 that was a worse case scenario that his
16 exposure, based on his testimony when using
17 Liquid Wrench, would be less than what I even
18 presented based on that well-ventilated area.

19 Q. Can you tell us what the ingredients
20 were to Liquid Wrench back in 1941?

21 A. I didn't even know they made it in
22 1941.

23 Q. Okay. Can you tell us what the
24 ingredients were to Liquid Wrench when
25 Mr. Watts was using it?

26 A. Well, I think it would have varied on
27 the formulation. He indicates that there was
28 some circumstances where he used an aerosol
29 version of the product, which would have been

1 a kerosene type product, mixed hydrocarbons.
2 There was no benzene in that product. It
3 contained oils and contained a graphite
4 material.

5 Q. So you actually have seen the
6 formulations for the Liquid Wrench?

7 A. Well, I have reviewed MSDS's, some of
8 the older MSDS's.

9 Q. How far back?

10 A. At least into the seventies.

11 Q. About the time they took the benzene
12 out of it in the late '70s?

13 A. I think it was prior to that time.

14 Q. You don't recall as you sit here, do
15 you?

16 A. I don't have those with me, no. I
17 can't give you specifics on that.

18 Q. Can you tell us the difference between
19 the Liquid Wrench product that you purchased
20 in 2002 to run your studies and the Liquid
21 Wrench product that Mr. Watts was using from a
22 formulation standpoint?

23 A. Well, the product that we were using
24 was more of a -- I mean it had soy oil in it,
25 a different type of oil --

26 Q. Soil oil?

27 A. -- than a mineral oil that was in the
28 historical version of --

29 Q. How much was the soy oil?

1 A. -- Liquid Wrench.

2 Q. How much was the soy oil in the study
3 part?

4 A. I don't -- I would have to go back and
5 look at the MSDS's. I don't have them. I
6 don't know.

7 Q. Is it greater than 50 percent of the
8 entire product?

9 A. I just don't recall. I would have to
10 go back and look at it. That part wasn't
11 important to us. It was -- what was --

12 Q. It may not be important --

13 A. What was --

14 COURT REPORTER: One at a time,
15 please.

16 THE COURT: Let him finish his answer
17 before you pose another question,
18 Mr. Lubel.

19 A. What was important to us, if we added
20 benzene, would it behave the same way, meaning
21 benzene evaporating out of the product. And
22 after looking at the physical properties of
23 the new material, the current material, we
24 felt that there was more opportunity for the
25 benzene to volatilize from that product,
26 again, in keeping with our worse case
27 scenario.

28 MR. LUBEL CONTINUING:

29 Q. What else was in the study product

1 other than soy oil?

2 A. Again, I would have to go look. I
3 just don't specifically recall.

4 Q. What was in the Liquid Wrench product
5 between 1947 and 1978, the regular Liquid
6 Wrench?

7 A. Yeah, I mean it would vary. I mean --

8 Q. Just tell us the materials you are
9 familiar with.

10 A. Well, there is aliphatic and aromatic
11 hydrocarbons.

12 Q. In which ones?

13 A. The whole host of them.

14 Q. Okay. Can you name some for us?

15 A. Naphthalene.

16 Q. Naphthalene. Okay.

17 A. At some point in time, certainly there
18 as benzene in there. Cyclohexane.

19 Q. Okay.

20 A. And there were probably many other
21 hydrocarbons, both allophanic and aromatic.

22 Q. What about Raffinate?

23 A. Oh, I'm sorry. Well, that's what I'm
24 talking about. Raffinate is allophanic and
25 aromatic hydrocarbons.

26 Q. All right. Now --

27 A. And I'm sorry. There's also graphite.
28 I think it was colloidal graphite.

29 Q. Now, which components were in the

1 Liquid Wrench that Mr. Watts used that was in
2 the study product before you spiked it, before
3 you added the benzene? Which common mixtures?

4 A. I don't know. I would have to compare
5 them, and I just didn't do that for today.

6 Q. What you took is, you took the current
7 Liquid Wrench and you poured benzene in it,
8 correct?

9 A. Yes.

10 Q. Now, why did you pick the current
11 Liquid Wrench? Why didn't you pick -- if the
12 mixtures -- if the components don't matter,
13 why didn't you just take a gallon of milk and
14 pour some benzene in it and run a study?

15 A. Well, because we wanted to use a
16 product that was designed to do what the
17 original Liquid Wrench was designed to do in
18 the manner it was designed to work. So we
19 wanted to use the same or a similar type
20 product based on its physical properties. And
21 I don't know. I haven't tried milk, quite
22 honestly.

23 Q. It doesn't matter which material you
24 use to run the study. You just -- you put
25 benzene in it and you can run a study,
26 correct?

27 A. Well, I don't know. It may matter.
28 we wanted to use a product that behaved the
29 same, was designed for the same purpose as the

1 historical Liquid Wrench product.

2 Q. But from the standpoint of running the
3 study, you can't tell us that they behave the
4 same if you don't know the relative -- if you
5 don't know the components of each and the
6 relative mixture in each, correct?

7 A. Well, I just -- I can't recite it for
8 you. We looked at that prior to doing the
9 study. We evaluated that. And again, based
10 on the physical properties of the current
11 Liquid Wrench, we felt that it would release
12 the benzene more readily than the historical
13 version of the product.

14 Q. What is your rate? How are you being
15 paid?

16 A. My rate is \$225 an hour.

17 Q. Have you ever been excluded in a court
18 of law from giving testimony?

19 A. I was excluded from -- in a case
20 not -- I wasn't excluded from the case, I was
21 excluded from talking about a specific aspect
22 of the case.

23 Q. That was a case in West Virginia?

24 A. Yes.

25 Q. What was the name of that case,
26 Levender?

27 A. Yes.

28 Q. And were you aware that the particular
29 court in that case found that your opinions

were not reliable because you were making
guesstimates.

MR. THOMAS: Your Honor, that's the same thing.

THE COURT: Sustained. The form of the question is improper.

MR. LUBEL CONTINUING:

Q. Thank you for your time?

A. Thank you.

THE COURT: Redirect, Mr. Epps?

REDIRECT EXAMINATION BY MR. EPPS:

Q. I could not hear, Mr. Spencer, so I apologize. Were you -- I'm not sure if you put dates on all of this.

A. No.

Q. Did you attempt to put dates on all of this?

A. No, no.

Q. I just simply couldn't hear.

A. I did not. I don't recall specific dates. I just don't have that information with me.

Q. Okay. Now, you said that you looked at the formula that was in Liquid Wrench during the time in question, and that would be including during the time that Mr. Watts was using Liquid Wrench.

A. Yes.

Q. Okay. It's been established during

1 the testimony that it contained Raffinate from
2 1960 to 1978, right?

3 A. Yes.

4 Q. And that's what you were testing
5 against.

6 A. Correct.

7 Q. Okay. Now, it looked -- before you
8 did the test, did you look at the chemical
9 components of the current version of Liquid
10 Wrench and compare them to the old version of
11 Liquid Wrench -- that's the time in question
12 -- and make an analysis of whether you would
13 actually have more benzene in the air if you
14 tested the current version by spiking it with
15 benzene than you would have with the old
16 version?

17 A. Yes. And that's what I said a moment
18 ago. We did look at those two things. We
19 looked at the physical properties of the two
20 chemicals, the historical one and the current-
21 day one. And based on the physical properties
22 of the current-day one, based on chemistry,
23 the benzene was more readily released from the
24 new product than from the historical product.
25 So, again, that was something we were doing as
26 part of our worse case analysis.

27 MR. EPPS: That's all I have. Thank
28 you, Your Honor.

29 THE COURT: Is the witness finally